

Christopher H. Westrick, Esq. (043721997)
Brian H. Fenlon, Esq. (035071987)
John V. Kelly, III, Esq. (910812012)
CARELLA, BYRNE, CECCHI, OLSTEIN,
BRODY & AGNELLO, P.C.
5 Becker Farm Road
Roseland, New Jersey 07068
(973) 994-1700
Attorneys for Defendants
Roman Catholic Archdiocese of Newark
(i.p.a. "Archdiocese of Newark"),
St. Theresa's R.C. Church (i.p.a.
"St. Theresa School"), Joseph W. Cardinal
Tobin (i.p.a. "Cardinal Joseph Tobin"),
Rev. Msgr. Thomas P. Nydegger, V.G.
(i.p.a. "Msgr. Nydegger"), Dr. Margaret Dames,
James Goodness, Father Joseph Bejgrowicz,
Deacon Joseph Caporaso (i.p.a. "Joseph Caporoso"),
Sister Helene Godin, Richard Donovan, and Anh Bui

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SCOTT PHILLIPS, AS GUARDIAN AD LITEM, ON BEHALF OF S.P., B.P. and K.P. and SCOTT PHILLIPS,	:	Civil Action No. 2:18-cv-12207 (MCA)
Plaintiff,	:	
v.	:	THE CHURCH DEFENDANTS' NOTICE OF MOTION TO DISMISS PLAINTIFFS' COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(6)
ARCHDIOCESE OF NEWARK, ST. THERESA SCHOOL, ST. THERESA CHURCH, CARDINAL JOSEPH TOBIN, MSGR. NYDEGGER, MARGARET DAMES, JOHN DOES 1-100, JOHN DOE CORPORATIONS 1-5, JOSEPH BEJGROWICZ, JOSEPH CAPOROSO, HELENE GODIN, SR. JULIETT PEREZ, RICHARD DONOVAN, ANH BUI, JAMES GOODNESS, ROBERT GRIMALDI, WANDA GRIMALDI, MATT POPOLA, LINDA KOSKI, MAKAYLA KOSKI, MARY FERRIS, AMBER PROTZ SIERANT, CHERYL KREINBERG,	:	Oral Argument Requested

JONATHON KREINBERG, PETER :
RUNFOLO, JOYCE RUNFOLO, RICH :
HARRINGTON, KELLY DONOVAN, :
JEANNIE PAVLIK, MATTHEW PAVLIK, :
JAMES PAVLIK, MARYANN GASPER, :
THERESA ADUBATO, HEATHER :
INGERSON, MARIA HARRIS, HEATHER :
ST JOHN, YANCY MUÑOZ, KATHLEEN :
SPOONAUER, CELIA SOUSA, EILEEN :
KELLY-O'BRIEN, VICTORIA DEVLIN, :
ROSEMARY RUBSAM, ROSANELLY :
MONTALVO, GERRI COLON, LAURIE :
GRIMES, MICHELLE CERNADAS, :
JOSEPH KRATZER JR., NATALIE :
WOOD, PATRICIA LANDAU, AMY :
REITHEL, ANN FERRARI, CYNTHIA :
GAILLIOT, BERADINE GILRAIN, :
BONNY HOTRA, BLANCA PASTORE, :
IZAIDA ROSA GARBANZO, JO RIVERA, :
DENISE, RICHARD, JOSEPH, JESSICA, :
NICHOLAS MIRABELLA, JOCELYN :
EDRALIN, MANUEL VAGUEIRO, KERRI :
KILLEN, JO ANN NETTA, NANCY :
ZIMMERMAN, MARIA STREKO, ROCIO :
CORVALAN, CHRISTINA RESTUCCIA, :
MICHAEL DEVLIN, GUILLERMO :
MUÑOZ, DEBORAH GIVENS/MATE, :
KAREN ZIMMERMAN, JIM HANNON, :
ALICE SCALA, EMILY VIDAL, MARY :
GAINES, SUSAN GIORDINO, :
ROSEANNE SCHUR, ANGELA :
LOMBARDI, ROGER SCHUR, MICHAEL :
MONTALVO, JEFF FERRARI, WILLIAM :
GORSKI, ROGER STRYESKI, THOMAS :
BRACKEN, FRED SOOS, SUSAN :
DOUGHERTY, MICHELE MILLER, ANN :
MORTIMER, TRISH RICKEN :
PLUMMER, ANDREA ZAGORSKI :
SCHUSTER, MARIA BUI, AMY ROSE, :
KELLY ANN HARRIS, PATRICIA RIMILI :
BLICHARZ, "BCSH9094", "STDA" AND :
"BEEZLEBROX", :
Defendants. :
:

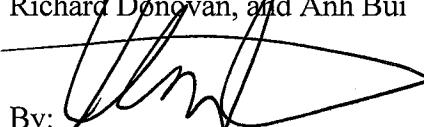
TO: Susan B. McCrea, Esq.
LAW OFFICES OF SUSAN B. MCCREA
24 Prospect Street
West Field, New Jersey 07080
Attorneys for Plaintiffs

PLEASE TAKE NOTICE that on Monday, October 1, 2018, at 10:00 in the forenoon or as soon thereafter as counsel may be heard, the undersigned attorneys for Defendants Roman Catholic Archdiocese of Newark (i.p.a. "Archdiocese of Newark"), St. Theresa's R.C. Church (i.p.a. "St. Theresa School"), Joseph W. Cardinal Tobin (i.p.a. "Cardinal Joseph Tobin"), Rev. Msgr. Thomas P. Nydegger, V.G. (i.p.a. "Msgr. Nydegger"), Dr. Margaret Dames, James Goodness, Father Joseph Bejgrowicz, Deacon Joseph Caporaso (i.p.a. "Joseph Caporoso"), Sister Helene Godin, Richard Donovan, and Anh Bui (the "Church Defendants," collectively) shall move before the Honorable Madeline Cox Arleo, U.S.D.J., at the Martin Luther King, Jr. Federal Building & U. S. Courthouse, 50 Walnut Street, Newark, New Jersey 07102, for an Order: (a) Dismissing with prejudice pursuant to Fed. R. Civ. P. 12(b)(6) Count One of the Complaint filed by Plaintiff Scott Phillips, as guardian ad litem on behalf of S.P., B.P. and K.P. and Scott Phillips (solely as to any claim therein raised under the New Jersey Law Against Discrimination, *N.J.S.A. 10:5-1, et seq.*), Count Two (Failure to Remedy - Breach of Contract), Count Three (New Jersey Anti-Bullying Bill of Rights Act), Count Four (Good Faith and Fair Dealing), Count Five (Failure to Remedy - Defamation), Count Six (Defamation), Count Seven (Expulsion - Breach of Contract), Count Eight (Fraud), Count Nine (Negligence, Negligent and Intentional Infliction of Emotional Distress), and Count Ten (Consumer Fraud), of the Plaintiffs' Complaint for failure to state claims upon which relief may be granted; and (b) Granting such other and further relief as the Court deems equitable, just and proper.

PLEASE TAKE FURTHER NOTICE that in support of the within motion, the Church Defendants shall rely upon their Supporting Brief and the Supporting Declaration of Brian H. Fenlon.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is annexed hereto.

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO, P.C.
Attorneys for Defendants
Roman Catholic Archdiocese of Newark (i.p.a.
“Archdiocese of Newark”), St. Theresa’s R.C.
Church (i.p.a. “St. Theresa School”), Joseph W.
Cardinal Tobin (i.p.a. “Cardinal Joseph Tobin”), Rev.
Msgr. Thomas P. Nydegger, V.G. (“i.p.a. Msgr.
Nydegger”), Dr. Margaret Dames, James Goodness,
Father Joseph Bejgrowicz, Deacon Joseph Caporaso
(i.p.a. “Joseph Caporoso”), Sister Helene Godin,
Richard Donovan, and Anh Bui

By: 
CHRISTOPHER H. WESTRICK

Dated: September 4, 2018

#656566v1